



# House of Representatives

## **File No. 606**

General Assembly

February Session, 2012

**(Reprint of File No. 137)**

Substitute House Bill No. 5232  
As Amended by House Amendment  
Schedule "A"

Approved by the Legislative Commissioner  
May 2, 2012

***AN ACT CONCERNING HEARINGS BEFORE THE ADMINISTRATOR  
AND THE EMPLOYMENT SECURITY APPEALS DIVISION UNDER THE  
UNEMPLOYMENT COMPENSATION ACT.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (a) of section 31-241 of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective*  
3 *October 1, 2012*):

4 (a) The administrator, or a deputy or representative designated by  
5 him and hereinafter referred to as an examiner, shall promptly  
6 examine the initiating claim and, on the basis of the facts found by  
7 him, shall determine whether or not such claim is valid and, if valid,  
8 the weekly amount of benefits payable and the maximum possible  
9 duration thereof. He shall promptly notify the claimant of the decision  
10 and the reasons therefor, which notification shall set forth the  
11 provision of this section for appeal. The administrator or an examiner  
12 shall promptly examine each claim for a benefit payment for a week of  
13 unemployment and, on the basis of the facts found by him, shall  
14 determine whether or not the claimant is eligible to receive such

15 benefit payment for such week and the amount of benefits payable for  
16 such week. The determination of eligibility by the administrator or an  
17 examiner shall be based upon evidence or testimony presented in such  
18 a manner as the administrator shall prescribe, including [in person,] in  
19 writing, by telephone or by other electronic means at a hearing called  
20 for such purpose. The administrator or an examiner may prescribe an  
21 in person hearing at his or her discretion, provided if an in person  
22 hearing is requested, the request may not be unreasonably denied by  
23 the administrator or an examiner, as the case may be. Notice of the  
24 decision and the reasons therefor shall be given to the claimant. The  
25 employers against whose accounts charges may be made due to any  
26 benefits awarded by the decision shall be notified of the initial  
27 determination of the claimant's benefit entitlement at the time notice is  
28 given to the claimant, which notification shall set forth the provisions  
29 of this section for appeal, provided any employer who claims that the  
30 claimant is ineligible for benefits because his unemployment is due to  
31 the existence of a labor dispute at such employer's factory,  
32 establishment or other premises, shall be notified of the decision and  
33 the reasons therefor, whether or not benefits awarded by the decision  
34 might be charged against such employer's account. The employer's  
35 appeal rights shall be limited to the first notice he is given in  
36 connection with a claim which sets forth his appeal rights, and no issue  
37 may be appealed if notice of such issue and the right to appeal such  
38 issue had previously been given. Notwithstanding any provisions of  
39 this chapter to the contrary, whenever the employer, after receiving  
40 notice of such hearing, fails to appear at the hearing or fails to timely  
41 submit a written response in a manner prescribed by the  
42 administrator, such employer's proportionate share of benefits paid to  
43 the claimant prior to the issuance of a decision by a referee under  
44 section 31-242 for any week beginning prior to the forty-second day  
45 after the end of the calendar week in which the employer's appeal was  
46 filed shall be charged against such employer's account and the  
47 claimant shall not be charged with an overpayment with respect to  
48 such benefits pursuant to subsection (a) of section 31-273. The decision  
49 of the administrator shall be final and benefits shall be paid or denied

50 in accordance therewith unless the claimant or any of such employers,  
51 within twenty-one calendar days after such notification was mailed to  
52 his last-known address, files an appeal from such decision and applies  
53 for a hearing, provided (1) any such appeal which is filed after such  
54 twenty-one-day period may be considered to be timely filed if the  
55 filing party shows good cause, as defined in regulations adopted  
56 pursuant to section 31-249h, for the late filing, (2) if the last day for  
57 filing an appeal falls on any day when the offices of the Employment  
58 Security Division are not open for business, such last day shall be  
59 extended to the next business day, and (3) if any such appeal is filed by  
60 mail, such appeal shall be considered timely filed if it was received  
61 within such twenty-one-day period or bears a legible United States  
62 postal service postmark which indicates that within such twenty-one-  
63 day period it was placed in the possession of such postal authorities  
64 for delivery to the appropriate office. Posting dates attributable to  
65 private postage meters shall not be considered in determining the  
66 timeliness of appeals filed by mail. Where the administrator or  
67 examiner has determined that the claimant is eligible for benefits,  
68 benefits shall be paid promptly in accordance with the determination  
69 regardless of the pendency of the period to file an appeal or the  
70 pendency of such appeal. No examiner shall participate in any case in  
71 which he is an interested party. Any person who has filed a claim for  
72 benefits pursuant to an agreement entered into by the administrator  
73 with the proper agency under the laws of the United States, whereby  
74 the administrator makes payment of unemployment compensation out  
75 of funds supplied by the United States, may in like manner file an  
76 appeal from the decision of such claim and apply for a hearing, and  
77 the United States or the agency thereof which had employed such  
78 person may in like manner appeal from the decision on such claim and  
79 apply for a hearing.

80 Sec. 2. Section 31-237j of the general statutes is repealed and the  
81 following is substituted in lieu thereof (*Effective October 1, 2012*):

82 (a) The referees shall promptly hear and decide appeals from the  
83 decisions of the administrator of this chapter, or his designee, appeals

84 from all other determinations made pursuant to any provision of this  
85 chapter and appeals from any proceeding conducted by authorized  
86 personnel of the Employment Security Division pursuant to directives  
87 of the United States of America and the Secretary of Labor of the  
88 United States. Except as otherwise provided in this chapter or in the  
89 applicable federal directives, appeals to referees shall be filed within  
90 the time limits and under the conditions prescribed in section 31-241,  
91 as amended by this act.

92 (b) The referees shall have state-wide jurisdiction and venue, and  
93 referee proceedings shall be conducted [throughout the state in such  
94 places as are reasonably convenient for the parties] (1) by telephone or  
95 other electronic means, or (2) at the request of either party, in person at  
96 locations within the state designated by the executive head of the  
97 Employment Security Appeals Division.

98 (c) The chief referee may appoint a panel of three referees to hear  
99 and decide any appeal involving (1) complex issues of fact, (2) complex  
100 issues of law, (3) multiple parties, or (4) numerous witnesses. The  
101 decision on all such appeals shall be by a majority vote of the full  
102 panel.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2012	31-241(a)
Sec. 2	October 1, 2012	31-237j

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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### ***OFA Fiscal Note***

***State Impact:*** None

***Municipal Impact:*** None

### ***Explanation***

The bill, which makes hearings by telephone the default way of conducting hearings and appeals under the Unemployment Compensation Act, has no fiscal impact.

The bill prevents a request for an in-person unemployment compensation hearing from being unreasonably denied. This has no fiscal impact.

While the bill may result in fewer in-person unemployment compensation hearings, it is not expected to reduce the number of examiners or referees needed or the operating costs associated with the adjudication offices.

House "A", which prevents the unemployment administrator or an examiner from unreasonably denying a request for an in-person hearing, has no fiscal impact.

### ***The Out Years***

***State Impact:*** None

***Municipal Impact:*** None

**OLR Bill Analysis****sHB 5232 (as amended by House "A")\******AN ACT CONCERNING HEARINGS BEFORE THE ADMINISTRATOR AND THE EMPLOYMENT SECURITY APPEALS DIVISION UNDER THE UNEMPLOYMENT COMPENSATION ACT.*****SUMMARY:**

By law, the Department of Labor administrator or examiner determining a claimant's eligibility for unemployment benefits has the discretion to hold hearings in person or by telephone or other electronic means. This bill prohibits the administrator or examiner from unreasonably denying a request for an in-person hearing.

Current law requires appeals over unemployment benefit eligibility to be heard in person at a location that is reasonably convenient for the parties. The bill makes hearings by telephone or other electronic means the default method for conducting these appeals, but it requires in-person hearings if either party requests one. It also allows the Employment Security Appeals Division's executive head to designate the hearing's location regardless of its convenience for the parties.

\*House Amendment "A" adds the provision prohibiting the unemployment administrator or examiner from unreasonably denying requests for in person hearings.

EFFECTIVE DATE: October 1, 2012

**COMMITTEE ACTION**

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 11 Nay 0 (03/15/2012)